

DAVID DELL’AQUILA, LORANND  
BORJA, TODD CHESNEY, and BRENT  
WEBER, on behalf of themselves and all  
others similarly situated,  
*Plaintiffs*  
v.  
NATIONAL RIFLE ASSOCIATION OF  
AMERICA  
*Defendant.*

Named Plaintiffs, David Dell’Aquila *et al.* (“Named Plaintiffs”), by and through their undersigned counsel, respectfully move the Court to reopen the above-styled case following its administrative closure. Dkt. 73. The motion should be granted for the following reasons.

2. The case was then delayed for four months due to the pending bankruptcy. On May 18, 2021, Defendant NRA filed a notice stating that the bankruptcy proceeding had been dismissed. Dkt. 75. From that point forward, the case was ripe to be reopened but Plaintiffs did not move the Court and so the case remained administratively closed. Fifteen months of additional, needless delay ensued.

3. While the Plaintiffs' side bears the fault for that additional delay, the Named Plaintiffs themselves are blameless. Throughout the period of delay, their lawyer, Elliott Schuchardt, was ineligible to practice before this Court. Mr. Schuchardt was suspended from practice before the United States District Court for the Eastern District of Tennessee pursuant to disciplinary proceedings in that court. In re Schuchardt, No. 3:18-MC-39, 2019 WL 6716992 (E.D. Tenn. Dec. 10, 2019).

4. Per Local Rule 83.01, Mr. Schuchardt was automatically suspended from practice before this Court as a result of the Eastern District of Tennessee decision. Mr. Schuchardt had an obligation to inform this Court of the suspension but did not do so until August 28, 2021. See Letter from Lynda M. Hill<sup>1</sup>. Lynda M. Hill, Clerk of Court, responded and informed Mr. Schuchardt of his ineligibility to practice before this Court on September 3, 2021. Id.

5. Despite his suspension, Mr. Schuchardt did not move to withdraw as counsel in the case. Rather, he simply let the case languish, leaving his name on the case but taking no active steps in the litigation.

6. Mr. Schuchardt finally moved to withdraw as counsel on April 20, 2022, after Defendant NRA's motion to dismiss forced his hand. Dkt. 80.

7. Following Mr. Schuchardt's withdrawal, Named Plaintiffs promptly moved the court for additional time to find new attorneys, Dkt. 84, and promptly responded to the Court's show cause order, Dkts. 87-88, describing their struggle to find replacement counsel willing to take on the burden and expense of this class action. They worked diligently in their search and have now retained new counsel.

---

<sup>1</sup> Available from Bloomberg Law, <https://aboutblaw.com/410> (last accessed 8/24/2022).

8. Named Plaintiffs apologize to the Court for the delay Mr. Schuchardt caused. Now that they have now found new counsel who are prepared to vigorously prosecute the case, they can assure the Court that there will be no more dilatory conduct.

9. Defendant NRA expresses the following position on this motion: “The NRA does not oppose the relief requested in this motion. That said, the NRA takes no position as to the specific allegations made therein.”

WHEREFORE, the Court should enter an order reopening the case.

Dated: August 25, 2022

Respectfully submitted,

/s/ Michael Kanovitz  
*One of Plaintiffs' Attorneys*

Michael I. Kanovitz (*pro hac vice*)  
Jonathan I. Loevy (*pro hac vice*)  
LOEVY & LOEVY  
311 North Aberdeen Street, 3rd Floor  
Chicago, IL 60607  
Telephone (312) 243-5900  
Email: mike@loevy.com  
jon@loevy.com

John R. Wingo (BPR #016955)  
401 Commerce Street, Suite 800  
Nashville, TN 37219  
Telephone: (615) 782-2263  
Email: john.wingo@stites.com

T. Morgan Ward, Jr. (*pro hac vice*)  
Chadwick A. McTighe (*pro hac vice*)  
400 West Market Street, Suite 1800  
Louisville, KY 40202  
Telephone: (502) 587-3400  
Email: mward@stites.com  
cmctighe@stites.com

*Counsel for Plaintiffs*

## CERTIFICATE OF SERVICE

I hereby certify that on the 25<sup>th</sup> day of August, 2022, a true and exact copy of the foregoing Motion was electronically filed with the Clerk's office using the CM/ECF system and served via the Court's CM/ECF system and/or via e-mail and/or U.S. mail upon the parties listed below. Parties may also access this filing through the Court's CM/ECF system.

William A. Brewer  
BREWER, ATTORNEYS & COUNSELORS  
750 Lexington Ave., 14th Floor  
New York, NY 10022  
Email: wbb@brewerattorneys.com  
*Counsel for Defendant National Rifle  
Association of America*

Wallace A. McDonald  
LACY, PRICE & WAGNER, P.C.  
249 N. Peters Rd., Suite 101  
Knoxville, TN 37923  
Email: amcdonald@lpwpc.com  
*Counsel for Defendant National Rifle  
Association of America*

/s/ Michael Kanovitz  
Michael Kanovitz